

Message Text

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ACTION OES-06

INFO OCT-01 ARA-06 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01
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TAGS: EFIS, US, BR
SUBJECT: U.S.-BRAZIL SHRIMP AGREEMENT

REF: (A) STATE 303224, (B) BRASILIA 10191

1. SUMMARY. GOB RESPONSE TO USG REQUEST TO RENEGOTIATE SUBJECT AGREEMENT IN FEBRUARY 1977 WAS GOB (1) PREFERS "SIMPLE EXTENSION", (2) SEES "NO IMPEDIMENT" IN LACK OF PROVISION FOR EXTENSION IN PRESENT AGREEMENT, (3) CONSIDERS PAYMENT OF FEE AS ESSENTIAL, AND (4) REQUIRES THAT ANY AGREEMENT, WHETHER EXTENSION OR NEWLY-NEGOTIATED, MUST EXPIRE DECEMBER 31, 1977. LATTER POINT HAS PRESIDENTIAL APPROVAL AND IS DESIGNED TO SYNCHRONIZE THE FOUR AGREEMENTS BRAZIL PRESENTLY HAS AND TO DEVELOP NEW TYPE OF AGREEMENT FOR POST-1977. EMBASSY RECOMMENDATIONS IN FINAL PARAGRAPH. END SUMMARY.

2. EMBOFF, IN CALL ON COUNSELOR PAULO DYRCEU PINHEIRO, CHIEF OF FONMIN'S BASIC PRODUCTS DIVISION, PROPOSED RENEGOTIATION
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OF AGREEMENT AND BASIS FOR PROPOSAL PER REF A. PINHEIRO SAID HE HAD CONSULTED WITH THE SECRETARY-GENERAL GUERREIRO (FONMIN'S NO. 2 OFFICIAL AS WELL AS GOB'S MASTERMIND ON LOS) WHO WISHES A "SIMPLE EXTENSION" OF PRESENT AGREEMENT. GOB BELIEVES IT IS PREMATURE TO ATTEMPT TO RENEGOTIATE AGREEMENT UNTIL AFTER COMPLETION OF LOS CONFERENCE.

3. FROM ITS OWN STANDPOINT, GOB SEES "NO IMPEDIMENT TO EXTENSION OF PRESENT AGREEMENT DESPITE ABSENCE OF SPECIFIC PROVISION THEREFORE. PINHEIRO OBSERVED THAT ALL GOVERNMENTS EXTEND, AND REVISE, AGREEMENTS THROUGH EXCHANGE OF NOTES. HE SPECIFICALLY REQUESTED THAT THE MATTER BE HANDLED IN THIS FASHION, AFTER PRIOR CONSULTATIONS BETWEEN THE FOREIGN MINISTRY AND THE EMBASSY. HE SAID THIS WAS THE SECRETARY-GENERAL'S DESIRE.

4. EMBOFF EXPLAINED THE DIFFICULTY FOR THE USG TO CONTINUE A FLAT FEE PAYMENT BECAUSE OF CONGRESSIONAL VIEWS AS WELL AS THE PRACTICAL DIFFICULTY FOR INDUSTRY OF INCREASED FEES -- AND PROBABLE DECLINE IN NUMBER OF BOATS SHRIMPING THAT WOULD EXIST. PINHEIRO SAID HE APPRECIATED OUR PROBLEM, BUT THAT IT WAS A PROBLEM FOR US, NOT THE BRAZILIANS, TO SOLVE. BRAZIL WOULD EXPECT PAYMENT OF NO LESS THAN THE PRESENT ANNUAL AMOUNT OF \$361,000, AND, IF THERE WAS UNCERTAINTY ON ULTIMATE PAYMENT, BRAZIL MIGHT REQUIRE PARTIAL OR FULL PAYMENT IN ADVANCE. EMBOFF POINTED OUT THAT IT APPEARED TO HIM THE DAYS OF ENFORCEMENT FEES PER SE WERE NUMBERED, IF NOT OVER, AND THAT ANY PAYMENT WOULD PROBABLY NEED TO BE IN ANOTHER CONTEXT SUCH AS LICENSES. PINHEIRO WAS INTERESTED IN KNOWING ABOUT THE RECENT U.S.-MEXICO AGREEMENT IN THIS REGARD AND REQUESTED EMBASSY TO OBTAIN COPY. REQUEST. PLEASE PROVIDE EMBASSY WITH TEXT AND ANY PERTINENT COMMENTS REGARDING U.S. MEXICO AGREEMENT.

5. LOOKING BEYOND 1977, PINHEIRO SAID A DECISION HAD BEEN MADE, BY PRESIDENT GEISEL HIMSELF, THAT A NEW LIMITED OFFICIAL USE

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APPROACH TO SHRIMPING AND/OR FISHING IN BRAZILIAN WATERS, WHICH WOULD ENTAIL JOINT VENTURES, WAS TO BE DEVELOPED. FOR THIS REASON, AS WELL AS SYMMETRY, THE GOB WISHED TO END THE U.S. AND SURINAM AGREEMENTS ON DECEMBER 31, 1977, THE SAME DATE THE SHRIMP AGREEMENTS WITH BARBADOS AND TRINIDAD AND TOBAGO EXPIRE. PINHEIRO LEFT NO DOUBT THAT UNDER NO CIRCUMSTANCES WOULD THE GOB CONSIDER ANY ULTIMATE EXPIRATION DATE OTHER THAN DECEMBER 31, 1977.

6. AT THE SAME TIME, PINHEIRO PROPOSED AND URGED EXTENSION OF THE PRESENT AGREEMENT FOR TWO MONTHS, TO AVOID A "JUDICIAL VACUUM", WHILE CONSULTATIONS TAKE PLACE EARLY IN THE NEW YEAR. THIS SHORT-TERM EXTENSION WOULD NEED TO BE COMPLETED BEFORE END OF THIS YEAR, AS POINTED OUT IN PGH. 2 OF REF B.

7. COMMENT. GOB AT HIGH LEVEL IS UNWILLING TO ENTER INTO ANY SIGNIFICANT RENEGOTIATION, PARTICULARLY WHERE PENDING

JURIDICAL ISSUES MIGHT BE INVOLVED. FURTHERMORE, DUE TO MAJOR CHANGES IT INTENDS TO PUT FORTH FOR POST-1977 AGREEMENTS, IT IS UNWILLING TO RENEGOTIATE IN EITHER DEPTH OR LENGTH AT THIS TIME. FOR 1977, WE BELIEVE THE GOB WOULD AGREE TO REMOVE NOW ARCHAIC OR IRRELEVANT POSITIONS IN THE CURRENT AGREEMENT, SUCH AS THOSE IN PREAMBULAR CLAUSES. WE DETECT THAT, WHILE GOB WOULD RESIST STRONGLY (PARTLY BECAUSE OF THE NAVY'S INTEREST AND INFLUENCE) ANY REDUCTION OF THE FEE FOR 1977, ITS INTEREST IS MORE IN THE REVENUE THAN THE FORM, NAME, OR SOURCE OF THE FEE. WE FURTHER DETECT THAT, WHILE THE GOB WOULD INSIST ON FORMAL INCLUSION OF A "SYMBOLIC PHASE-DOWN" OF THE NUMBER OF BOATS SHRIMPING, IT WOULD ALLOW A REASONABLE NUMBER OF BOATS IN THE AREA OF THE AGREEMENT. END COMMENT.

8. RECOMMENDATIONS. IN VIEW OF THE ABOVE -- STRONG RESISTANCE TO RENEGOTIATION BY THE GOB, PROSPECTIVE DIFFICULTIES OF A RENEGOTIATION EARLY IN 1977, AND THE GOB REQUEST FOR A LIMITED OFFICIAL USE

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TWO-PHASED EXTENSION OF PRESENT AGREEMENT THROUGH FONMIN-EMBASSY CHANNEL, EMBASSY RECOMMENDS:

(1) REGARDLESS OF WHAT COURSE DEPARTMENT CHOOSES, AN EXCHANGE OF NOTES, WHICH WOULD PROVIDE FOR NO TEXTUAL CHANGE WHILE EXTENDING THE AGREEMENT UNTIL FEB. 28, 1977, SHOULD BE COMPLETED BEFORE THE END OF 1976.

(2) (A) IF DEPARTMENT, NOTWITHSTANDING THE DIFFICULTIES, FEELS THAT A RENEGOTIATION IS ESSENTIAL, EVEN THOUGH THE AGREEMENT WOULD BE FOR A SHORT DURATION, EMBASSY WILL PRESENT PROPOSAL FOR RENEGOTIATION AT A HIGH LEVEL TO SEEK REVERSAL OF GOB POSITION. IN ORDER TO MAKE AN EFFECTIVE PRESENTATION, EMBASSY WOULD REQUIRE AN OUTLINE OF MAJOR ITEMS TO BE RENEGOTIATED.

(B) IF DEPARTMENT ACCEPTS INSTEAD THE GOB PROPOSAL FOR CONSULTATIONS AT THE EMBASSY-FONMIN LEVEL, EMBASSY WILL REQUIRE DETAILED INSTRUCTIONS TO ARRIVE AT A FINAL EXTENSION, WITH MINIMUM REVISIONS OF THE AGREEMENT REFLECTED IN AN EXCHANGE OF NOTES, EFFECTIVE MARCH 1 - DECEMBER 31, 1977.

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